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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,928	11/17/2003	Reto Schoeb	015258-057700US	3153
20350	7590	06/30/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			WILSON, KATINA M	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,928

Applicant(s)

SCHOEB, RETO

Examiner

Katina M. Wilson

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 17-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winter 4077251 in view of Moked et al (4032391).

Winter teaches a method for determining viscosity of liquid including providing a rotary pump 6/7 including bottom inlet and side outlet, and rotor 7, which collectively have an efficiency. Liquid is directed into the pump, and viscosity is determined as a function of torque 2. Winter does not refer to any particular efficiency.

Moked et al teach (col. 8, lines 12+, continuing on to col. 9, line 15) that a gear pump may provide a viscosity as a function of torque (See Eqn (5)), and then expresses that the torque value term of the equation is "orders of magnitude" (col. 9, line 8) greater than the discharge pressure term. Moked also provides for a plurality of fluid conditions (TABLE I) under which this occurs. The values listed in the first six columns represent short tests for peak performance of the gear pump, while the last two columns represent long term steady state operating condition (col. 7, lines 34-40). Thus, as the discharge pressure term (i.e. last three variables of Eqn (5)) is a lower value, which is suggestive that the Delta P value is low in comparison to the torque, suggestive of a relatively high friction (i.e. viscosity) device.

It should be apparent that there are many fluid conditions (i.e. flow, speed, temperature), *as exhibited in TABLE I of Moked*, under which torque values are measured in Winter are also indicative of a lower Delta P (i.e. work output) in comparison with a higher torque, suggestive of a low efficiency device.

3. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winter in view of Moked et al in further view of Epple et al 5295737.

As to claim 16, neither Winter nor Moked et al teach determining the torque comprises driving the pump with an electric motor, and measuring a current consumed by the rotor for generating the torque. Epple et al teaches a current measuring device 6 and shows a pump 7 is driven via electric motor 2 where the motor supplied with a limited current, will continuously supply the pump with a torque. It would have been obvious to one skilled in the art at the time the invention made to monitor current supplied to an electric motor after the motor is switched on and lower current value which corresponds to the torque necessary to maintain a functional system (abstract, col. 1, lines 24-50; col. 2, lines 1-58).

Allowable Subject Matter

4. Claims 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2856

Pineau et al 5667425 teaches the torque measurement may be taken by measuring the current consumed by the electric motor.

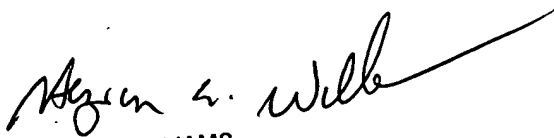
Closing

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katina M. Wilson whose telephone number is 571-272-2209. The examiner can normally be reached on Mon-Fri 6:15am-2:00pm, off on Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KW


HEZRON WILLIAMS
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